

# C/CAG

## CITY/COUNTY ASSOCIATION OF GOVERNMENTS OF SAN MATEO COUNTY

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Millbrae • Pacifica • Portola Valley • Redwood City • San Bruno • San Carlos • San Mateo • San Mateo County • South San Francisco • Woodside*

## AGENDA

The next meeting of the Legislative Committee  
will be as follows.

<p><b>PLEASE NOTE THAT WE ARE BACK IN THE DINING ROOM AND WE WILL BE MEETING AT 5:30 P.M. !!</b></p>
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**Date:** Thursday, August 11, 2005 – 5:30 p.m. to  
7:00 p.m. (dinner will be served)  
**Place:** San Mateo County Transit District Office<sup>1</sup>  
1250 San Carlos Avenue  
**4<sup>th</sup> Floor Dining Room**  
San Carlos, California

PLEASE CALL WALTER MARTONE (599-1465) IF YOU ARE UNABLE TO ATTEND.

- |    |  |   |                        |
|----|--|---|------------------------|
| 1. | PUBLIC COMMENT ON ITEMS NOT ON<br>THE AGENDA | Presentations<br>are limited to 3<br>minutes. | 5:30 p.m.<br>(5 mins.) |
|----|--|---|------------------------|

### **REGULAR AGENDA**

- |    |  |   |            |                       |
|----|--|---|------------|-----------------------|
| 2. | Minutes of the meeting of<br>June 9, 2005  | Action<br>(Martone)                             | Pages 1-3  | 5:35 p.m.<br>(5 mins) |
| 3. | Update from C/CAG's Lobbyist in<br>Sacramento (in person).<br><br>A position may be taken on any legislation,<br>including legislation not previously<br>identified. | Potential Action<br>(Wes Lujan &<br>Chuck Cole) | Pages 5-16 | 5:40p.m.<br>(30 mins) |

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<sup>1</sup>From Route 101 take the Holly Street (west) exit. Two blocks past El Camino Real go left on Walnut. The entrance to the parking lot is at the end of the block on the left, immediately before the ramp that goes under the building. Enter the parking lot by driving between the buildings and making a left into the elevated lot. Follow the signs up to the levels for public parking.

4.	Discussion and potential action on various bills <ul style="list-style-type: none"> <li>• SCA 15 – to limit the ability of local jurisdictions to use Eminent Domain to take real property.</li> </ul>	Potential Action (Martone)	Page 17-22	6:10 p.m. (30 mins)
5.	Establish date and time for next meeting (September 8, 2005).	Action (Panza)		6:40 p.m. (0 mins)
6.	Other Items/Comments from Guests.	Potential Action (Panza)		6:40 p.m. (10 mins)
7.	Adjournment.	Action (Panza)		6:50 p.m.

**NOTE: All items appearing on the agenda are subject to action by the Committee. Actions recommended by staff are subject to change by the Committee.**

Other enclosures/Correspondence

- None

**CITY/COUNTY ASSOCIATION OF GOVERNMENTS  
LEGISLATIVE COMMITTEE**

**MINUTES  
MEETING OF JUNE 9, 2005**

At 6:03 p.m. Chairman Lee Panza called the meeting to order in the Fourth Floor Dining Room at the San Mateo Transit District Office.

Members Attending: Chairman Lee Panza, Deborah Gordon, Marc Hershman, Vice Chair Sue Lempert, Irene O'Connell, Mike King, and Jim Vreeland.

Staff/ Guests Attending: David Burruto (Speaker Pro Tem Leland Yee's Office), Richard Napier (C/CAG Executive Director), Brian Moura (San Carlos), Walter Martone (C/CAG Staff), and Duane Bay.

**1. Public comment on items not on the agenda.**

- None.

**2. Minutes of the Meeting of May 12, 2004.**

*Motion: To approve the minutes of May 12, 2005 as presented. Lempert/Wilder, unanimous.*

**3. Update from C/CAG's Lobbyist in Sacramento (via conference call).**

Wes Lujan reported:

- It appears even more likely that the Governor will call a Special Election in November 2005. There is very little movement in Sacramento by the Legislature on the Governor's priorities; therefore he will probably resort to taking them to the voters.
- On the budget, the major differences that need to be worked out include: Proposition 98 support to the schools, the Vehicle License Fee gap loan repayment, and booking fees. The Conference Committee on the budget does not appear to be considering new items that had not been brought forth through the legislation adopted by the two houses. Assemblyman John Laird has been very good at keeping everyone focused. There appears to be some bitterness over the Legislature being reined in by Proposition 1A, and they block any early repayment of the Vehicle License Fee loan in retaliation.
- The Proposition 42 funds will likely hold for this budget; however the funds from the Indian Gaming bonds may not hold due to pending lawsuits.
- Brian Moura reported on the Sacramento negotiations regarding AB 903 (telecommunications). He is attempting to get the bill broadened to include all providers of service and not just be limited to VERISON.
- ACA 13 – The Administration has been very silent on this issue. Some have indicated that the stormwater provisions should be dropped. Advocacy has

clearly stated our position that without the stormwater provision, the bill is not useful for us. We then spoke with the Author – Assemblyman Harman, and secured his agreement to drop the whole bill if the stormwater provision gets taken out. The strategy right now is to get the bill through the Committee process and to the Floor for a vote. We can then begin to count votes. Ideally senior members of the Governor’s Staff will help us in lobbying the Republican Caucus for support on ACA 13. The Cities of Santa Monica and San Diego have offered assistance in pushing the bill. Secretary Taniman appears to be still on Board with supporting the stormwater piece of ACA 13. A number of individuals have spoken with him about this.

- SB 521 – This bill dealing with Transit Villages has been amended to remove the provision that requires “use by right.” This provision that would preempt local land use authority was of big concern to C/CAG and most cities. The bill now provides a new tool for cities to finance development around transit stations.

#### **4. Consideration of positions on various bills:**

SB 521 (Torlakson): This bill will allow tax increment financing for development around transit stations that are included in a designated Transit Village, by expanding the definition of “blight” for development projects within transit villages designated by local jurisdictions.

*Motion: To recommend that the C/CAG Board take a “support” position on SB 521 provided that the “use by right” provision remains out of the bill.  
Lempert/King, unanimous.*

SB 987 (Migden): This bill will allow the 9 Bay Area counties to use transportation sales tax revenues for projects in other counties. This will enable San Francisco to contribute to the electrification and other improvements of the Caltrain System.

*Motion: To recommend that the C/CAG Board take a “support” position on SB 987. Lempert/Gordon, unanimous.*

The Commission on State Mandates has recently ruled that mandate on Councils of Governments (COGs) to develop and distribute Regional Housing Needs Assessments (RHNA) is not an unfunded State mandate and therefore is not subject to reimbursement by the State. This is because the Councils are able to charge the local jurisdictions for providing this service. The League, ABAG, and the County are attempting to have this ruling reversed.

*Motion: To recommend that the C/CAG Board work with the County and ABAG and the League to fight this ruling by the Commission on State Mandates that the RHNA is not an unfunded State mandate. King/Hershman, unanimous.*

AB 970: This bill would authorize the San Mateo County Board of Supervisors to place on the ballot a sales tax to support parks. Assemblyman Yee would like to know if the cities are in support of this measure. The city managers and a number of Councilpersons have been attending meetings on this topic and the main issues that remains to be

resolved is the percent share that would go to the cities versus the County. At this point there is no consensus among the cities on whether or not to support going forth with legislation at this point. A number of cities are still evaluating whether they want to have their own city-wide tax instead of joining a County-wide effort. Assemblyman Yee is sponsoring this bill, and would like to know ahead of time if there is going to be opposition to the bill.

**5. Establish date and time for next meeting (July 14, 2005).**

The next meeting was tentatively set for Thursday, July 14, 2005 at the San Mateo County Transit District Office. The regular C/CAG meeting that night has been canceled. C/CAG staff will work with Legislative Committee Chair Lee Panza to determine if the Legislative Committee needs to have its meeting on July 14<sup>th</sup> as scheduled.

**6. Other Items/Comments from Guests.**

- None.

**7. Adjournment.**

The meeting was adjourned at 6:55 p.m.

# C/CAG AGENDA REPORT

**Date:** August 11, 2005  
**To:** City/County Association of Governments Legislative Committee  
**From:** Richard Napier, C/CAG Executive Director  
**Subject:** UPDATE FROM C/CAG'S LOBBYIST IN SACRAMENTO

A position may be taken on any legislation, including legislation not previously identified.

(For further information contact Walter Martone at 599-1465 or Richard Napier at 599-1420)

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## **RECOMMENDATION**

That the Legislative Committee accept the attached report on State legislation and receive an oral update from Advocacion.

## **FISCAL IMPACT**

Not applicable.

## **SOURCE OF FUNDS**

Not applicable.

## **BACKGROUND/DISCUSSION**

Attached is a list of the bills that appear to be most related to the legislative priorities established by the C/CAG Board. C/CAG staff is also be tracking approximately 135 other bills that have subject matter consistent with C/CAG's legislative priorities. The Legislature is currently in recess and will not reconvene until August 15, 2005.

C/CAG's Lobbyists Wes Lujan and Chuck Cole from Advocacion, will provide an update to the Committee in person.

## **ATTACHMENTS**

- Action Report With Summary By Subject.

**ACTION REPORT WITH SUMMARY BY SUBJECT****C/CAG Priority 1 Bills**

Bills to take a position on

**Airport Land Use****AB 1358 (Mullin) Acquisition of proposed schoolsites: notice.**

A - 05/04/2005

**Status:**

07/11/2005 - SEN APPR. From committee: Do pass, and re-refer to Com. on APPR. Re-referred. (Ayes 9. Noes 1.).

**Calendar:**

08/15/05 1:30 p.m. - John L. Burton Hearing Room (4203) SEN APPROPRIATIONS

**Summary:**

Existing law requires the governing board of each school district, before acquiring title to property for a new schoolsite, to provide the State Department of Education written notice of the proposed acquisition, along with any information required by the department, if the proposed site is within two miles, measured by air line, of that point on an airport runway or potential airport runway included in an airport master plan that is nearest to the site. Existing law requires the State Department of Education, upon receipt of the notice, to notify the Department of Transportation in writing of the proposed acquisition. Existing law requires the Department of Transportation to investigate the proposed site and submit a report of its findings and recommendations concerning acquisition of the site to the State Department of Education. Existing law requires the State Department of Education to forward the report to the governing board of the school district. Existing law provides that state or local funds may not be apportioned or expended for acquisition of a site if the Department of Transportation's recommendation does not favor acquisition of the site. This bill would require a school district to provide the Department of Transportation with that notice before leasing property for a new schoolsite. This bill also would make these provisions applicable to charter schools.

C/CAG

Support

1

Airport Land  
Use**Budget****AB 518 (Canciamilla) State budget: Department of Finance Reports.**

A - 05/04/2005

**Status:**

06/30/2005 - SEN APPR. From committee: Do pass, and re-refer to Com. on APPR. Re-referred. (Ayes 6. Noes 3.).

**Calendar:**

08/15/05 1:30 p.m. - John L. Burton Hearing Room (4203) SEN APPROPRIATIONS

**Summary:**

The California Constitution requires the Governor to submit annually to the Legislature a budget itemizing state expenditures and estimating state revenues and requires the Legislature to pass the Budget Bill by midnight on June 15. In addition, existing law requires the Director of Finance to provide to the Legislature on a specified schedule certain materials relating to the Governor's Budget, including, by May 14 of each year, an estimate of General Fund revenues for the current fiscal year and the ensuing fiscal year, along with proposed adjustments to the budget, as specified. This bill would require the Director of Finance to submit, at the time of submission of the Governor's Budget for each fiscal year, at the time prior to May 14 when the director provides the information specified above, and on a date within 30 days of the enactment of the Budget Act, estimates for annual General Fund revenues and expenditures, and personnel years supported by those General Fund expenditures, for 5 fiscal years, as specified. It would further require one of these reports, if it identified a deficit in any fiscal year covered in its estimates, to include proposals for eliminating that deficit.

C/CAG

1

Budget

**ACA 1 (Calderon) Two-Year Budget.**

I - 12/06/2004

**Status:**

04/14/2005 - ASM 2 YEAR Referred to Coms. on BUDGET and APPR.

**Calendar:****Summary:**

The California Constitution requires that a budget be submitted by the Governor, and that a Budget Bill be passed by the Legislature, for each fiscal year. This measure would express the intent of the Legislature to enact the necessary statutory changes, and to propose to the people the necessary constitutional changes, to enact a budget for a two-year fiscal period.

**ACTION REPORT WITH SUMMARY BY SUBJECT****C/CAG Priority 1 Bills**

Bills to take a position on

C/CAG

1

Budget

**Housing****AB 1203 (Mullin) Housing: regional job growth.**

I - 02/22/2005

**Status:**

02/24/2005 - ASM 2 YEAR From printer. May be heard in committee March 26.

**Calendar:****Summary:**

Existing law requires a city or county to include a housing element in its general plan, and, for that purpose, prescribes criteria for determining the city or county share of the regional housing needs, including a requirement that the distribution of regional housing needs take into account, among other things, market demand for housing and employment opportunities. This bill would declare the Legislature's intent to authorize local governments to create Greyfield housing and investment zones in coordination with a regional process, in specific areas where additional job growth and high density housing is desired to match transportation, air quality, and other regional priorities. The created zones shall have tax increment authority, access to transportation funds, future infrastructure improvement funds, and affordable housing funds.

C/CAG

Watch

1

Housing

**Land Use Authority****SB 44 (Kehoe) General plans: air quality element.**

A - 05/17/2005

**Status:**

07/13/2005 - ASM APPR. Do pass.

**Calendar:****Summary:**

Existing law requires the legislative body of each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city, and of any land outside its boundaries that bears relation to its planning. The law requires the plan to include a specified land use element that designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, and other categories of public and private uses of land. Existing law specifically requires the legislative body of each city and county within the jurisdictional boundaries of the San Joaquin Valley Air Pollution Control District to amend appropriate elements of its general plan to include specified information to improve air quality, including a report describing local air quality conditions. This bill would make a legislative finding that air pollution is a serious problem in this state. The bill would require the legislative body of each city and county located in specified areas to either adopt an air quality element as part of its general plan, as specified, or amend the appropriate elements of its general plan to include data and analysis, comprehensive goals, policies, and feasible implementation strategies intended to contribute to and complement other local, regional, state, and federal strategies to improve air quality no later than one year from the date specified for the next revision of its housing element that occurs after January 1, 2007. The bill would require all other cities and counties to comply with these provisions, as specified, during their next general plan update but no later than the date specified for the 5th revision of their housing element that occurs after January 1, 2007. This bill contains other related provisions and other existing laws.

C/CAG

Watch

1

Land Use  
Authority**SB 321 (Morrow) Development: fees.**

A - 04/14/2005

**Status:**

04/18/2005 - SEN 2 YEAR Set, second hearing. Hearing canceled at the request of author.

**Calendar:**



**ACTION REPORT WITH SUMMARY BY SUBJECT****C/CAG Priority 1 Bills**

Bills to take a position on

**Summary:**

Existing law authorizes a local agency to charge a variety of fees in connection with the approval of a development project, as defined. Existing law provides that in specified actions imposing a fee as a condition of approval of a development project by a local agency, the local agency shall determine how there is a reasonable relationship between, among other things, the fee's use and the type of development project on which the fee is imposed or the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development on which the fee is imposed. This bill would, provide that these requirements apply in any action establishing, increasing, or imposing a fee by a local agency as a condition of approval of a development project and would place the burden on the local agency of producing evidence to establish that the fee does not exceed the cost of the public facility, service, or regulatory activity, except as specified .

C/CAG

1

Land Use

Authority

**SB 1059 (Escutia) Electric transmission corridors.**

A - 05/27/2005

**Status:**

06/02/2005 - ASM DESK In Assembly. Read first time. Held at Desk.

**Calendar:****Summary:**

Existing law requires the State Energy Resources Conservation and Development Commission to adopt a strategic plan for the state's electric transmission grid using existing resources. Existing law requires that the plan identify and recommend actions required to implement investments needed to ensure reliability, relieve congestion, and to meet future growth in load and generation, including, but not limited to, renewable resources, energy efficiency, and other demand reduction measures. This bill would authorize the commission to designate a transmission corridor zone on its own motion or by application of a person who plans to construct a high-voltage electric transmission line within the state. The bill would provide that the designation of a transmission corridor shall serve to identify a feasible corridor in which can be built a future transmission line that is consistent with the state's needs and objectives as set forth in the strategic plan adopted by the commission. The bill would prescribe procedures for the designation of a transmission corridor, including publication of the request for designation and request for comments, coordination with federal agencies and California Native American governments, informational hearings, and requirements for a proposed decision. This bill contains other related provisions and other existing laws.

C/CAG

Oppose unless  
amended 1

Land Use

Authority

**SCA 15 (McClintock) Eminent domain: condemnation proceedings.**

I - 07/13/2005

**Status:**

07/14/2005 - SEN PRINT From print. May be acted upon on or after August 14.

**Calendar:****Summary:**

The California Constitution authorizes governmental entities to take or damage private property for public use only when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner. It also authorizes the Legislature to provide for possession by the condemnor following commencement of the eminent domain proceedings upon deposit in court, and prompt release to the owner, of the money determined by the court to be the probable amount of the just compensation. This measure would add a condition that private property may be taken or damaged by eminent domain proceedings only for a stated public use and only upon an independent judicial determination on the evidence that the condemnor has proven that no reasonable alternative exists. The measure would require that the property be owned and occupied by the condemnor, except as specified, and used only for the stated public use. This bill contains other related provisions.

C/CAG

1

Land Use

Authority

**Meetings of Public Bodies**

**ACTION REPORT WITH SUMMARY BY SUBJECT****C/CAG Priority 1 Bills**

Bills to take a position on

**AB 194 (Dymally) Brown Act violations: remedy.**

A - 04/07/2005

**Status:**

05/04/2005 - ASM 2 YEAR In committee: Set, first hearing. Hearing canceled at the request of author.

**Calendar:****Summary:**

The Ralph M. Brown Act requires, with specified exceptions, that all meetings of a legislative body of a local agency be open and public and all persons be permitted to attend. The act authorizes the district attorney or any interested person to commence an action by mandamus or injunction for a judicial determination that an action of a legislative body of a local agency taken in violation of the act is null and void but requires that the body have an opportunity to cure or correct the alleged violation prior to commencement of the legal action. The act provides that an action of the body alleged to violate specified provisions of the act shall not be determined to be null and void if the action was taken in substantial compliance with those provisions and in other specified circumstances. The act requires the district attorney or interested person to make a written demand of the legislative body to cure or correct the alleged violation within 90 days from the date the action was taken unless the action was taken in open session and in violation of a specified provision of the act. This bill would also permit the district attorney or any interested person to commence an action by declaratory relief and would reduce the time period that the district attorney or interested person has to make a written demand of the legislative body to cure or correct an alleged violation prior to commencement of a legal action to within 60 days from the date the action was taken, except as specified. Under this bill the burden of proof would be by clear and convincing evidence on the legislative body that its action taken was not in violation of specified provisions of the act .

C/CAG

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*Meetings of  
Public Bodies*

**Other Local Govt Interest****AB 867 (Liu) Vote by mail.**

A - 05/04/2005

**Status:**

05/25/2005 - ASM 2 YEAR In committee: Set, second hearing. Held under submission.

**Calendar:****Summary:**

Existing law authorizes a local, special, or consolidated election to be conducted wholly by mail if the governing body of the local agency authorizes the use of all mailed ballots for the election, the election is held on an established mailed ballot election date, and the election meets certain other specified requirements. This bill would, until January 1, 2011, authorize 7 specified counties, , to participate in a vote-by-mail pilot project. The bill would require the 7 selected counties to provide the voters in that county, for any local, special, primary, or general election to be held in the county for the duration of this pilot program, with ballots that may be returned by mail. This bill contains other related provisions.

C/CAG

1

*Other Local  
Govt Interest*

**Sales Tax****AB 451 (Yee) Local sales tax: jet fuel: place of sale.**

A - 06/27/2005

**Status:**

06/30/2005 - SEN APPR. From committee: Do pass, and re-refer to Com. on APPR. Re-referred. (Ayes 7. Noes 1.).

**Calendar:**

08/15/05 1:30 p.m. - John L. Burton Hearing Room (4203) SEN APPROPRIATIONS

**Summary:**

**ACTION REPORT WITH SUMMARY BY SUBJECT****C/CAG Priority 1 Bills**

Bills to take a position on

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose sales and use taxes pursuant to the adoption of local ordinances. That law provides, for purposes of applying a local sales tax imposed under that law to sales of jet fuel, that the point of sale of that jet fuel is the point of delivery of the jet fuel to the aircraft if, both the principal negotiations for that sale are conducted in this state, and the retailer of that jet fuel has more than one place of business in this state. This bill would provide that , effective January 1, 2008, the point of sale of jet fuel is the point of delivery of that jet fuel to the aircraft. The bill would also require the Legislative Analyst, by October 1, 2006, to conduct a study and prepare a report on the state sales and use tax system, as specified.

C/CAG

1

Sales Tax

CSAC-support

**AB 1282 (Mullin) Local sales and use tax: jet fuel: place of sale.**

A - 04/19/2005

**Status:**

04/25/2005 - ASM 2 YEAR In committee: Set, second hearing. Hearing canceled at the request of author.

**Calendar:****Summary:**

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose sales and use taxes pursuant to the adoption of local ordinances. That law provides, for purposes of applying a local sales tax imposed under the Bradley-Burns Uniform Local Sales and Use Tax Law to sales of jet fuel, with respect to a retailer that has more than one place of business in the state, that the point of sale of that fuel is the point of delivery of that fuel to the aircraft, if the principal negotiations for that sale are conducted in this state. This bill would provide that the point of sale of jet fuel is the point of delivery of that jet fuel to the aircraft. This bill would delete those provisions that provide, for purposes of determining the point of sale of jet fuel with respect to sales by a retailer with more than one place of business in this state, that the point of sale of that fuel is the point of delivery of that fuel only if the principal negotiations for that sale are conducted in this state. This bill would also provide, with respect to nonretail purchases of jet fuel, that the first functional use of the jet fuel shall be deemed to occur at the point of delivery of the jet fuel to the aircraft.

C/CAG

1

Sales Tax

**Smart Growth****SB 521 (Torlakson) Local planning: transit village plans.**

A - 05/27/2005

**Status:**

06/13/2005 - ASM 2 YEAR To Coms. on H. &amp; C.D. and L. GOV.

**Calendar:****Summary:**

The Transit Village Development Planning Act of 1994 authorizes a city or county to prepare a transit village plan for a transit village development district that includes all land within not more than 1/4 mile of the exterior boundary of the parcel on which is located a transit station, as defined, and addresses specified characteristics, including a neighborhood centered around a transit station and a mix of housing types, including apartments, that is planned and designed, as specified, and any 5 of demonstrable public benefits that reduce traffic congestion. This bill would require a transit village plan to include a transit station and a parcel, at least 1/2 of which is within not more than 1/4 mile of the exterior boundary of the parcel on which the transit station is located or parcels located in an area equal to the area encompassed by a 1/4 mile radius from the exterior boundary of the parcel on which the station is located. This bill contains other related provisions and other existing laws.

C/CAG

Support with  
amendments

1

Smart Growth

**Solid Waste & Recycling****AB 399 (Montanez) Recycling.**

A - 07/14/2005

**Status:**

07/14/2005 - SEN APPR. Read second time, amended, and re-referred to Com. on APPR.

**ACTION REPORT WITH SUMMARY BY SUBJECT****C/CAG Priority 1 Bills**

Bills to take a position on

**Calendar:**

08/15/05 1:30 p.m. - John L. Burton Hearing Room (4203) SEN APPROPRIATIONS

**Summary:**

Existing law, the California Integrated Waste Management Act of 1989, establishes an integrated waste management program administered by the California Integrated Waste Management Board. The act requires a local jurisdiction to develop a source reduction and recycling element of an integrated waste management plan containing specified components. On and after January 1, 2000, the element is required to divert 50% of the solid waste subject to the element, except as specified, through source reduction, recycling, and composting activities. The act requires a local jurisdiction to submit to the board an annual report on its progress in reducing solid waste. The act establishes factors, as enumerated, that the board must consider when determining whether or not to impose penalties on a local jurisdiction for failing to implement its source reduction and recycling elements. This bill would require the board, by March 1, 2007, to make available one or more model ordinances and model notification documents that may be adopted by a local agency to facilitate solid waste reduction, reuse, and recycling programs at multifamily dwellings, as defined, and to post specified information on the board's Internet Web site. The bill would require a local agency, when issuing a building permit for a new construction or a substantial rehabilitation to an owner of a multifamily dwelling, after July 1, 2007, to provide specified information to the owner on programs that can be implemented to reduce, reuse, and recycle solid waste materials generated at the multifamily dwelling, thereby imposing a state-mandated local program by imposing a new duty on a local agency. The bill would authorize a local agency to charge and collect a reasonable fee from the owner for providing the specified information. This bill contains other related provisions and other existing laws.

C/CAG

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Solid Waste &  
Recycling**Stormwater (NPDES)****ACA 13 (Harman) Local government: assessments and fees or charges.**

A - 04/21/2005

**Status:**

05/04/2005 - ASM 2 YEAR In committee: Set, first hearing. Hearing canceled at the request of author.

**Calendar:****Summary:**

(1) The California Constitution conditions the imposition or increase of an assessment by a city, county, or special district for flood control purposes upon compliance with requirements for written notice to property owners, a public hearing, and an opportunity for majority protest. The California Constitution exempts the imposition of a flood control assessment existing on November 6, 1996, from these requirements. This measure would instead exempt from these requirements an assessment for the purposes of financing the capital costs or maintenance and operation expenses of flood control, whether the assessment existed on November 6, 1996, or is imposed after that date. This bill contains other related provisions and other existing laws.

C/CAG

Support with  
amendments

1

Stormwater  
(NPDES)**Transportation - Roads****AB 1329 (Wolk) Design-build contracting: cities.**

A - 07/07/2005

**Status:**

07/13/2005 - SEN APPR. From committee: Do pass, and re-refer to Com. on APPR. Re-referred. (Ayes 8. Noes 0.).

**Calendar:**

08/15/05 1:30 p.m. - John L. Burton Hearing Room (4203) SEN APPROPRIATIONS

**Summary:**

**ACTION REPORT WITH SUMMARY BY SUBJECT****C/CAG Priority 1 Bills**

Bills to take a position on

Existing law requires public entities to comply with certain procedures in soliciting and evaluating bids and awarding contracts for the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement. Existing law, until January 1, 2006, permits certain counties, with the approval of the board of supervisors, to enter into design-build contracts, as defined, in accordance with specified provisions. This bill would, until January 1, 2011, permit cities in the Counties of Solano and Yolo, with the approval of the city council, to enter into specified design-build contracts, as defined, in accordance with specified provisions. This bill would require cities that elect to use the described design-build contract procurement process to report to the Legislative Analyst's office before December 1, 2009. This bill contains other related provisions and other existing laws.

C/CAG

Support

1

Transportation -  
Roads**AB 1714 (Plescia) Toll Bridge Seismic Retrofit Program.**

A - 05/03/2005

**Status:**

05/25/2005 - ASM 2 YEAR In committee: Set, second hearing. Held under submission.

**Calendar:****Summary:**

Existing law estimates the cost to seismically retrofit the state-owned toll bridges and to replace the east span of the San Francisco-Oakland Bay Bridge at \$4,637,000,000, including \$2,600,000,000 for the east span replacement. Existing law identifies funding to be made available for this purpose from various funding sources, including a \$1 per vehicle toll surcharge on Bay Area state-owned toll bridges and Proposition 192 seismic repair bond funds, among other sources. This bill would state the intent of the Legislature to develop a funding solution for the Toll Bridge Seismic Retrofit Program .

C/CAG

1

Transportation -  
Roads**SB 172 (Torlakson) Bay area state-owned toll bridges: financing.**

A - 05/27/2005

**Status:**

06/13/2005 - ASM 2 YEAR To Com. on TRANS.

**Calendar:****Summary:**

Existing law specifies the powers and duties of the Department of Transportation, the Metropolitan Transportation Commission, and the Bay Area Toll Authority with respect to the collection and expenditure of toll revenue from the state-owned toll bridges within the geographic jurisdiction of the commission. Under existing law, this toll revenue, other than revenue from the \$1 seismic surcharge, is deposited into the Bay Area Toll Account and controlled by the authority. Existing law requires the department and the authority to enter into a cooperative agreement that makes the department responsible for operating the bridges and for constructing improvements to the bridges financed by toll revenues. Existing law estimates the cost to seismically retrofit the state-owned bay area toll bridges and identifies funding to be made available for this purpose from various sources, including imposition of a \$1 seismic retrofit surcharge. Under existing law, this surcharge revenue is deposited into the Toll Bridge Seismic Retrofit Account for expenditure by the department until completion of the seismic projects and payment of the bonds issued to finance those projects. This bill would state the Legislature's findings that the amount identified for the seismic retrofit of the state-owned toll bridges is insufficient and would state its intent to identify additional funding sources for those projects. The bill would require the seismic retrofit surcharge to be paid to the authority and deposited into the Bay Area Toll Account, and would require the department to transfer to the authority, for deposit into that account, all revenue from the surcharge. The bill would continuously appropriate all seismic surcharge revenues in the account to the authority for purposes specified by law. The bill would authorize on or after January 1, 2009, the authority to increase the seismic retrofit surcharge by \$1. This bill contains other related provisions and other existing laws.

C/CAG

Support

1

Transportation - MTC  
Roads Staff-support

**ACTION REPORT WITH SUMMARY BY SUBJECT****C/CAG Priority 1 Bills**

Bills to take a position on

**SB 371 (Torlakson) Public contracts: design-build contracting: transportation entities.**

A - 04/26/2005

**Status:**

05/26/2005 - SEN 2 YEAR Set, first hearing. Held in committee and under submission.

**Calendar:****Summary:**

Existing law sets forth requirements for the solicitation and evaluation of bids and the awarding of contracts by public entities for the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement. Existing law also authorizes specified state agencies, cities, and counties to implement alternative procedures for the awarding of contracts on a design-build basis. Existing law, until January 1, 2007, authorizes transit operators to enter into a design-build contract, as defined, according to specified procedures. This bill would authorize, until January 1, 2011, certain state and local transportation entities to use a design-build process for bidding on highway construction projects, as specified. This bill would establish a procedure for submitting bids that includes a requirement that design-build entity bidders provide certain information in a questionnaire submitted to the transportation entity that is verified under oath. Because a verification under oath is made under penalty of perjury, the bill would, by requiring a verification, create a new crime and thereby impose a state-mandated local program. The bill would require these transportation entities to report to the Legislature regarding implementation of the design-build process. This bill would also state the intent of the Legislature that a transportation entity implement a labor compliance program for design-build projects. This bill contains other related provisions and other existing laws.

C/CAG

Support

1

Transportation - MTC-support  
Roads

**SB 1024 (Perata) Public works and improvements: bond measure.**

A - 05/12/2005

**Status:**

05/27/2005 - SEN THIRD READING From committee: Do pass. (Ayes 8. Noes 5. Page 1306.) Read second time. To third reading.

**Calendar:****Summary:**

Existing law sets forth a funding plan for the seismic retrofit or replacement of certain state-owned toll bridges by the Department of Transportation. Existing law, pursuant to Proposition 192 of 1996, provides \$2 billion in voter-approved general obligation bond funds for state highway and toll bridge seismic work. This bill would enact the Safe Facilities, Improved Mobility, and Clean Air Bond Act of 2005 to authorize \$7,688,000,000 in state general obligation bonds for specified purposes, including the seismic retrofit of toll bridges, levee improvements, restoration of Proposition 42 transportation funds, port infrastructure and security projects, trade corridors of significance, emissions reduction projects, environmental enhancement projects, and transportation needs in cities, counties, and cities and counties that meet certain requirements relative to provisions of housing needs in their communities, subject to voter approval. This bill contains other related provisions.

C/CAG

Support

1

Transportation - MTC  
Roads Staff-support

**Transportation-All****ACA 4 (Plescia) Transportation Investment Fund.**

A - 05/09/2005

**Status:**

05/10/2005 - ASM 2 YEAR Re-referred to Com. on TRANS.

**Calendar:****Summary:**

**ACTION REPORT WITH SUMMARY BY SUBJECT****C/CAG Priority 1 Bills**

Bills to take a position on

Article XIX B of the California Constitution requires, commencing with the 2003-04 fiscal year, that sales taxes on motor vehicle fuel that are deposited into the General Fund be transferred to the Transportation Investment Fund for allocation to various transportation purposes. Article XIX B authorizes this transfer to the Transportation Investment Fund to be suspended in whole or in part for a fiscal year during a fiscal emergency pursuant to a proclamation by the Governor and the enactment of a statute by a 2/3 vote in each house of the Legislature if the statute does not contain any unrelated provision. This measure would delete the provision authorizing the Governor and the Legislature to suspend the transfer of revenues from the General Fund to the Transportation Investment Fund for a fiscal year during a fiscal emergency.

C/CAG

Support

1

Transportation-  
All**ACA 9 (Bogh) Motor vehicle fuel sales tax revenue.**

I - 01/24/2005

**Status:**

04/21/2005 - ASM 2 YEAR Referred to Coms. on TRANS. and APPR.

**Calendar:****Summary:**

Existing provisions of the California Constitution require that sales taxes on motor vehicle fuel that are deposited into the General Fund be transferred to the Transportation Investment Fund and used for transportation purposes, but allow the transfer of these revenues to be suspended in whole or in part for a fiscal year under specified circumstances by a statute enacted by a 2/3 vote of the membership of each house of the Legislature. This measure would change the vote requirement to 4/5 of the membership of each house of the Legislature in order to enact a statute suspending in whole or in part the transfer of this particular revenue from the General Fund to the Transportation Investment Fund.

C/CAG

Support

1

Transportation-  
All**ACA 11 (Oropeza) Transportation funds: loans.**

I - 02/16/2005

**Status:**

04/21/2005 - ASM 2 YEAR Referred to Com. on TRANS.

**Calendar:****Summary:**

Article XIX of the California Constitution requires excise taxes on motor vehicle fuel and certain fees imposed on motor vehicles to be used only for specified transportation and vehicle-related purposes, but authorizes these excise tax revenues to be loaned to the General Fund under certain conditions, including a requirement that the funds be repaid within 3 years. Article XIX A of the California Constitution provides that funds in the Public Transportation Account, which are derived from certain sales taxes on motor vehicle fuels, may be loaned to the General Fund or any other state fund or account under certain conditions, including a requirement that the funds be repaid within 3 years. This measure would require interest to be paid on a loan of revenues subject to either Article XIX or XIX A if the loan is not repaid during the same fiscal year in which it was made. The measure would require a loan made pursuant to Article XIX or XIX A to be made pursuant to a statute establishing the terms for repayment and would prohibit the enactment of a statute making a new loan pursuant to Article XIX or XIX A prior to the full repayment of each previous loan under Article XIX or XIX A, respectively. The measure would also prohibit a loan from being authorized by a statute during more than 2 fiscal years within any period of 10 consecutive fiscal years. The measure would also authorize tax revenues subject to Article XIX or XIX A to be loaned to other state funds or accounts in addition to the General Fund. This bill contains other related provisions and other existing laws.

C/CAG

Support

1

Transportation-  
All**SB 987 (Migden) County transportation authorities.**

C - 07/19/2005

**Status:**

07/19/2005 - SEN CHAPTERED Chaptered by Secretary of State - Chapter No. 83, Statutes of 2005

**Calendar:**

**ACTION REPORT WITH SUMMARY BY SUBJECT****C/CAG Priority 1 Bills**

Bills to take a position on

**Summary:**

The Bay Area County Traffic and Transportation Funding Act authorizes each of the 9 counties in the bay area to impose a 1/2 or 1% sales tax for transportation purposes, subject to voter approval. Existing law provides for the establishment of a county transportation authority in each county imposing a sales tax under these provisions, requires the development of a county transportation expenditure plan, and specifies the powers and duties of a county board of supervisors and the county transportation authority in this regard. Existing law generally requires the proceeds of the tax to be expended in the county of origin, except that the County of San Mateo may spend a portion of its tax proceeds in another county if so provided in its county transportation expenditure plan. This bill would authorize any of the 9 counties to spend a portion of its tax proceeds in another county if so provided in its county transportation expenditure plan. The bill would also authorize the membership of the county transportation authority to be specified in the tax ordinance, would authorize the authority to be the sponsoring agency for projects included in the expenditure plan, and would change the existing threshold for contracts to be competitively bid to \$75,000.

C/CAG

Support

1

Transportation-  
All**SCA 7 (Torlakson) Loans of transportation revenues and funds.**

I - 02/15/2005

**Status:**

05/26/2005 - SEN 2 YEAR Set, first hearing. Held in committee and under submission.

**Calendar:****Summary:**

The California Constitution restricts the expenditure of certain motor vehicle fuel and vehicle-related revenues to specified transportation purposes, but authorizes these revenues to be loaned to the General Fund under certain conditions. The California Constitution further provides that the trust funds in the Public Transportation Account in the State Transportation Fund may be loaned to the General Fund under certain conditions. This measure would require any loan of these motor vehicle fuel and vehicle-related revenues or trust funds that is not repaid within the same fiscal year in which the loan was made, or by a date not more than 30 days after the enactment date of the Budget Bill for the subsequent fiscal year, to be repaid with interest at a specified rate. The measure would provide that a loan of these funds may also be made to other state funds or accounts under the conditions applicable to loans to the General Fund.

C/CAG

1

Transportation-  
All**Vehicle Abatement****AB 716 (Canciamilla) Vessels: abandonment: abatement.**

A - 06/28/2005

**Status:**

06/28/2005 - SEN APPR. Read second time, amended, and re-referred to Com. on APPR.

**Calendar:**

08/15/05 1:30 p.m. - John L. Burton Hearing Room (4203) SEN APPROPRIATIONS

**Summary:**

Existing law authorizes the officer who has custody of wrecked vessel property to sell it at public auction and transmit the proceeds of the sale, after deducting salvage, storage, property tax liens, other liens, and other expenses, to the Treasurer for deposit in the General Fund, if, among other things, no claimant of the property appears within 90 days after the wrecked property was saved. This bill, instead, would authorize the wrecked property to be sold at auction if no claimant of the property appears within 60 days after the wrecked property was saved. This bill contains other related provisions and other existing laws.

C/CAG

Staff - watch

1

Vehicle  
Abatement



# C/CAG AGENDA REPORT

**Date:** August 11, 2005  
**To:** C/CAG Legislative Committee  
**From:** Richard Napier, C/CAG Executive Director  
**Subject:** DISCUSSION AND POTENTIAL ACTION ON VARIOUS BILLS

A position may be taken on any legislation, including legislation not previously identified.

(For further information contact Walter Martone at 599-1465 or Richard Napier at 599-1420)

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## **RECOMMENDATION**

That the C/CAG Legislative Committee review SCA 15 and determine whether it is appropriate to provide a recommendation to the C/CAG Board at this time.

## **FISCAL IMPACT**

No impact to C/CAG. Potential impact to individual jurisdictions.

## **SOURCE OF FUNDS**

Not applicable.

## **BACKGROUND/DISCUSSION**

SCA 15 (McClintock) – introduced 7/13/05: The California Constitution authorizes governmental entities to take or damage private property for public use only when just compensation, ascertained by a jury unless waived, has first been paid to the owner. It also authorizes the Legislature to provide for possession by the condemnor following commencement of the eminent domain proceedings upon deposit in court, and prompt release to the owner, of the money determined by the court to be the probable amount of the just compensation. This measure would add a condition that private property may be taken or damaged by eminent domain proceedings only for a stated public use and only upon an independent judicial determination on the evidence that the condemnor has proven that no reasonable alternative exists. The measure would require that the property be owned and occupied by the condemnor, except as specified, and used only for the stated public use.

The League and CSAC have both taken a watch position on this bill.

## **ATTACHMENTS**

- Complete copy of SCA 15

**Introduced by Senators McClintock and Florez**

**(Principal coauthor: Senator Hollingsworth)**

(Principal coauthor: Assembly Member La Malfa)

**(Coauthors: Senators Aaenstad, Ackerman, Ashburn, Battin, Campbell, Cox, Denham, Dutton, Maldonado, Margett, Morrow, and Poochigian)**

(Coauthors: Assembly Members Aghazarian, Benoit, Blakeslee, Bogh, Cogdill, DeVore, Emmerson, Garcia, Haynes, Shirley Horton, Houston, Huff, Keene, La Suer, Leslie, Maze, McCarthy, Mountjoy, Nakanishi, Negrete McLeod, Parra, Plescia, Sharon Runner, Spitzer, Strickland, Tran, Umberg, Villines, Walters, and Wyland)

July 13, 2005

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Senate Constitutional Amendment No. 15—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 19 of Article I thereof, relating to eminent domain.

LEGISLATIVE COUNSEL'S DIGEST

SCA 15, as introduced, McClintock. Eminent domain: condemnation proceedings.

The California Constitution authorizes governmental entities to take or damage private property for public use only when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner. It also authorizes the Legislature to provide for possession by the condemnor following commencement of the eminent domain proceedings upon deposit in court, and prompt release to the owner, of the money determined by the court to be the probable amount of the just compensation.

This measure would add a condition that private property may be taken or damaged by eminent domain proceedings only for a stated public use and only upon an independent judicial determination on the evidence that the condemnor has proven that no reasonable alternative exists. The measure would require that the property be owned and occupied by the condemnor, except as specified, and used only for the stated public use.

This measure would also provide that if the property ceases to be used for the stated public use, the former owner or a beneficiary or an heir, who has been designated for this purpose, would have the right to reacquire the property for the compensated amount or its fair market value, whichever is less, before the property may be sold or transferred.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

1 WHEREAS, This measure shall be known and may be cited as  
2 “The Homeowner and Property Protection Act”; and  
3 WHEREAS, Eminent domain has been subject to widespread  
4 abuse in California, whereby local governmental entities have  
5 condemned property and transferred it, by sale, lease, or  
6 otherwise, to the control, management, or exploitation of private  
7 entities for private use and profit on the theory that generalized  
8 public benefits will flow therefrom; and  
9 WHEREAS, The United States Supreme Court, in *Kelo v. City*  
10 of New London, \_\_\_ U.S. \_\_\_ (2005), has held that the United  
11 States Constitution does not prevent the transfer of property,  
12 seized through eminent domain, to private entities for private  
13 profit; and  
14 WHEREAS, The rights guaranteed in the California  
15 Constitution are not dependent on rights guaranteed under the  
16 United States Constitution (Section 24 of Article I of the  
17 California Constitution), and the California Constitution should  
18 protect the property rights of Californians to a greater degree  
19 than does the United States Constitution; nor should the term  
20 “public use” in the California Constitution be construed as  
21 identical to that phrase as employed in the Fifth Amendment to  
22 the United States Constitution; and  
23 WHEREAS, It is the intent of the Legislature that private  
24 property shall not be taken or damaged for the use, exploitation,

1 or management of any private party, including, but not limited to,  
2 the use, exploitation, or management of property taken or  
3 damaged by a corporation or other business entity for private  
4 profit, as is currently permitted under the United States  
5 Constitution under *Kelo v. City of New London*, \_\_ U.S. \_\_  
6 (2005); and

7 WHEREAS, It is not the intent of this amendment to prevent  
8 the rental of space in a government building or any other  
9 government-owned property for incidental commercial  
10 enterprises, including, but not limited to, gift shops, newsstands,  
11 or shoeshine stands; and

12 WHEREAS, This amendment shall apply only to  
13 condemnation actions that are completed after this amendment  
14 goes into effect; now, therefore, be it

15 *Resolved by the Senate, the Assembly concurring*, That the  
16 Legislature of the State of California at its 2005-06 Regular  
17 Session commencing on the sixth day of December 2004,  
18 two-thirds of the membership of each house concurring, hereby  
19 proposes to the people of the State of California, that the  
20 Constitution of the State be amended as follows:

21 That Section 19 of Article I thereof is amended to read:

22 SEC. 19. (a) Private property may be taken or damaged for a  
23 stated public use only when just compensation, ascertained by a  
24 jury unless waived, has first been paid to, or into court for, the  
25 owner. ~~The Private property may not be taken or damaged for~~  
26 ~~private use.~~

27 (b) *Private property may be taken by eminent domain only for*  
28 *a stated public use and only upon an independent judicial*  
29 *determination on the evidence that the condemnor has proven*  
30 *that no reasonable alternative exists. Property taken by eminent*  
31 *domain shall be owned and occupied by the condemnor or may*  
32 *be leased only to entities that are regulated by the Public*  
33 *Utilities Commission. All property that is taken by eminent*  
34 *domain shall be used only for the stated public use.*

35 (c) *If any property taken through eminent domain after the*  
36 *effective date of this subdivision ceases to be used for the stated*  
37 *public use, the former owner of the property or a beneficiary or*  
38 *an heir, if a beneficiary or heir has been designated for this*  
39 *purpose, shall have the right to reacquire the property for the*

1 *compensated amount or the fair market value of the property,*  
2 *whichever is less, before the property may be sold or transferred.*  
3 (d) The Legislature may provide for possession by the  
4 condemnor following commencement of eminent domain  
5 proceedings upon deposit in court and prompt release to the  
6 owner of money determined by the court to be the probable  
7 amount of just compensation.

O